(g) *Jurisdiction.* Any action under this subpart may be brought in any United States district court, or in any other court of competent jurisdiction, and shall be brought within one year after the date of the occurrence of the violation involved.

(h) *Reliance on Board rulings.* No provision of this subpart imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, regardless of whether the rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason after the act or omission has occurred.

[53 FR 19433, May 27, 1988, as amended by Reg. CC, 54 FR 13850, Apr. 6, 1989; 54 FR 32047, Aug. 4, 1989; 69 FR 47311, Aug. 4, 2004]

§ 229.39 Insolvency of bank.

(a) *Duty of receiver.* A check or returned check in, or coming into, the possession of a paying, collecting, depositary, or returning bank that suspends payment, and which is not paid, shall be returned by the receiver, trustee, or agent in charge of the closed bank to the bank or customer that transferred the check to the closed bank.

(b) *Preference against paying or depositary bank.* If a paying bank finally pays a check, or if a depositary bank becomes obligated to pay a returned check, and suspends payment without making a settlement for the check or returned check with the prior bank that is or becomes final, the prior bank has a preferred claim against the paying bank or the depositary bank.

(c) *Preference against collecting, paying, or returning bank.* If a collecting, paying, or returning bank receives settlement from a subsequent bank for a check or returned check, which settlement is or becomes final, and suspends payments without making a settlement for the check with the prior bank, which is or becomes final, the prior bank has a preferred claim against the collecting or returning bank.

(d) *Preference against presenting bank.* If a paying bank settles with a presenting bank for one or more checks, and if the presenting bank breaches a warranty specified in § 229.34(c) (1) or (3) with respect to those checks and suspends payments before satisfying the paying bank's warranty claim, the paying bank has a preferred claim against the presenting bank for the amount of the warranty claim.

(e) *Finality of settlement.* If a paying or depositary bank gives, or a collecting, paying, or returning bank gives or receives, a settlement for a check or returned check and thereafter suspends payment, the suspension does not prevent or interfere with the settlement becoming final if such finality occurs automatically upon the lapse of a certain time or the happening of certain events.

[Reg. CC, 53 FR 19433, May 27, 1988, as amended at 57 FR 46973, Oct. 14, 1992; Reg. CC, 62 FR 13810, Mar. 24, 1997]

§ 229.40 Effect of merger transaction.

(a) *In general.* For purposes of this subpart, two or more banks that have engaged in a merger transaction may be considered to be separate banks for a period of one year following the consummation of the merger transaction.

(b) *Merger transactions on or after July 1, 1998, and before March 1, 2000.* If banks have consummated a merger transaction on or after July 1, 1998, and before March 1, 2000, the merged banks may be considered separate banks until March 1, 2001.

[Reg. CC, 53 FR 19433, May 27, 1988, as amended at 64 FR 14577, Mar. 26, 1999]

§ 229.41 Relation to State law.

The provisions of this subpart supersede any inconsistent provisions of the U.C.C. as adopted in any state, or of any other state law, but only to the extent of the inconsistency.

§ 229.42 Exclusions.

The expeditious-return (§§ 229.30(a) and 229.31(a)), notice-of-nonpayment (§ 229.33), and same-day settlement (§ 229.36(f)) requirements of this subpart do not apply to a check drawn upon the United States Treasury, to a U.S. Postal Service money order, or to a check drawn on a state or a unit of general local government that is not payable through or at a bank.

[Reg. CC, 62 FR 13810, Mar. 24, 1997]